

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

AKER BIOMARINE ANTARCTIC AS,

Plaintiff,

v.

OLYMPIC HOLDING AS; RIMFROST AS;
EMERALD FISHERIES AS; RIMFROST USA,
LLC; AVOCA INC.; BIORIGINAL FOOD &
SCIENCE CORP.

Defendants.

C.A. No. 16-035-LPS-CJB

JOINT STIPULATION

Plaintiff Aker BioMarine Antarctic AS (“AKBM,” or “Plaintiff”) and Defendants Olympic Holding AS; Rimfrost AS; Emerald Fisheries AS; Rimfrost USA, LLC; Avoca Inc. and Bioriginal Food & Science Corp. (collectively “Defendants”) jointly submit this Stipulation and Proposed Order for the Court’s consideration and entry. This request is not made for purposes of delay.

WHEREAS, defendant Bioriginal Food & Science Corp. filed a Motion to Dismiss for Failure to State a Claim Pursuant to Fed. R. Civ. P. 12(b)(6) (D.I. 14), and defendants Olympic Holding AS; Rimfrost AS; Emerald Fisheries AS; Rimfrost USA, LLC; and Avoca Inc. filed a Motion to Dismiss for Failure to State a Claim Pursuant to Fed. R. Civ. P. 12(b)(6) and for Lack of Personal Jurisdiction (D.I. 17);

WHEREAS, the Court entered a stipulated Order permitting plaintiff AKBM to file a First Amended Complaint to “eliminate or at a minimum reduce the issues for the Court to consider in connection with” the motions to dismiss and setting a schedule for the parties to complete briefing on the motions to dismiss (D.I. 27);

WHEREAS, pursuant to the Stipulated Order, on June 24, 2016, Plaintiff AKBM filed a

First Amended Complaint (D.I. 29), along with answering briefs explaining AKBM's positions as to why the First Amended Complaint eliminated the issues raised in the motions to dismiss (D.I. 30 & 31);

WHEREAS, pursuant to the Stipulated Order (D.I. 27, ¶1), on July 26, 2016, defendants filed reply briefs in support of their motions, responding to plaintiff's answering briefs and explaining defendants' positions as to why the First Amended Complaint did not cure the deficiencies identified in the motions to dismiss (D.I. 36 & 38), along with renewed, *pro forma* motions to dismiss to link the existing motion to dismiss briefing to the First Amended Complaint (D.I. 35 & 37);

WHEREAS, plaintiff AKBM has requested the opportunity to file further papers in support of its First Amended Complaint and defendants are amenable to this request, provided that any additional papers are limited to allegations pleaded for the first time in the First Amended Complaint;

WHEREAS, plaintiff AKBM is amenable to these conditions;

NOW, THEREFORE, the parties stipulate and agree, subject to the approval of the Court, as follows:

1. Plaintiff AKBM may file a brief in response to defendants' Motions to Dismiss (D.I. 14, 17, 35 & 37), responding to defendants' arguments about the First Amended Complaint on or before August 26, 2016.
2. Defendants may reply to AKBM's response brief on or before September 13, 2016.
3. No brief filed pursuant to this Stipulation and Proposed Order shall exceed 10 pages.

4. The briefs filed pursuant to this Stipulation and Proposed Order shall address only facts pleaded for the first time in the First Amended Complaint or new arguments made in response to the First Amended Complaint.

5. Upon the filing of the briefs set forth in Paragraphs 1 and 2 above, no further briefs will be filed by the parties in connection with defendants' motions to dismiss plaintiff's Complaint (D.I. 1) and/or plaintiff's First Amended Complaint (D. I. 29).

6. The deadline for the parties to complete the Case Management Checklist shall be extended to October 7, 2016.

Dated: August 12, 2016

Respectfully Submitted,

/s/ John W. Shaw
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Counsel for Aker BioMarine Antarctic AS

IT IS SO ORDERED, this _____ day of August, 2016

United States District Judge